

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare – Khammam District – Revision Petition filed Under Section 6 of A.P.S.A.L.T.R 1959, by Sri Burra Venkanna S/o Late Burra Mallaiah & 3 others R/o Maddulapally (V) Kamepally (M), Khammam against the orders of the Additional Agent to Government in CMA No.84/2003 dated:2-4-2005 – Dismissed- Orders-Issued.

SOCIAL WELFARE (LTR-2) DEPARTMENT

G.O.Ms.No: 226

Dated: 24-11-2008.

Read the following:

1. From Sri M. Raja Malla Reddy, Counsel for the Petitioner Revision Petition dt:21-6-2005.
2. Government Letter & Memo No.5808/LTR-2/2005-1&2, dt:1-8-2005.
3. From the Hon'ble High Court of Andhra Pradesh in W.P No.14482/2005 dt:6-7-2005.
4. From the Additional Agent to Government, Bhadrachalam in R.C No. CMA 84/2003 dt:29-7-2006.
5. Government Memo No.5808/LTR-2/2005, dt:21-8-2007,3-9-2007 and 6-11-2007.

ORDER:

In the reference 1st read above Sri Burra Venkanna S/o Late Burra Mallaiah has filed a Revision Petition before the Government against the orders of the Additional Agent to Government in CMA No.84/2003 dated:2-4-2005 in respect of lands admeasuring Acres 5.00 in Sy.No185 situated at Adavi Maddulapally Village of Kamepalli (M) of Khammam District. Sri Burra Mallaiah i.e. respondent in lower and appellate courts died and his sons Burra Venkanna, Burra Sarvaiah, Burra Veeranna, Burra Sreenu filed Revision Petition before the Government with the following grounds:-

- i) The 1st respondent i.e. Addl. Agent to Govt. & PO ITDA Bhadrachalam ought to have seen that the land in question i.e. 5 acres in Sy.No.185 situated in Maddulapalli village, Kamepalli Mandal, Khammam District, was purchased by the father of the petitioners on 10-3-1960 much before the coming into force of Andhra Pradesh Scheduled Areas Land Transfer Regulation and as such the said purchase by their father is perfectly valid and legal.
- ii) The Addl. Agent to Govt. & PO, ITDA, Bhadrachalam entertained the appeal against the order of 2nd respondent i.e. Special Deputy Collector (TW), Paloncha dt.25.9.1976 with an abnormal delay of 27 years without there being any condone delay petition and as such the order of the Addl. Agent is liable to be set aside.
- iii) The Addl. Agent to Govt. & PO, ITDA, Bhadrachalam ought to have seen that he has no jurisdiction to decide the Appeal and it is only the Agent to Government i.e. the Dist. Collector who got jurisdiction to decide the Appeal.
- iv) The other reasons given by the 1st respondent i.e. Addl. Agent while allowing the appeal are unsound and untenable in law.

2. The brief history of the case is that :-

I. As per Spl. Deputy Collector (TW), Paloncha in LTR case No.816/75, dt: 25.9.1976

- i) On the petition received from tribal Duggi Ramulu, a LTR case was initiated by Special Deputy Collector (TW), Paloncha for restoration of 5 acres of land from the respondent Burra Mallaiah R/o Maddulapalli which was illegally occupied by the latter.
- ii) Respondent Burra Mallaiah filed sale deed written on plain paper, supposed to have been executed on 10.3.1960. He also produced LR receipts for 1962-63, 1963-64 and for 1968-69 and subsequent years.
- iii) Petitioner Duggi Ramulu deposed that he sold the land 13 years ago for a consideration of Rs.200/- per acre and that a sale agreement was executed. Patwari stated that the land sold to the respondent was outside 38-E patta land and that the petitioner is in possession of the land for which patta was given. The actual extent in possession of respondent is 4 acres dry as stated by the patwari and as mentioned in the sale deed.
- iv) In view of petitioner's admission, the petition was disallowed.

II. Again in the year 1984 another case was initiated by the SDC (TW) Paloncha vide case No.142/YLD/1984 on the same land in between the same parties. Case was dropped on the point of resjudicata. Aggrieved by the orders of Special Deputy Collector (TW), Paloncha the petitioner had filed appeal before the Additional Agent to Government, Bhadrachalam.

III. As per Addl. Agent to Govt. & PO, ITDA Bhadrachalam in CMA No.84/2003, dt.2.4.2005

- a. Duggi Suryanarayana S/o (late) Ramulu filed appeal petition before the Agent to Govt. Khammam. The CMA was taken on file and orders of lower court were stayed. Subsequently, the case was transferred to the court of Addl. Agent to Govt. & PO ITDA Bhadrachalam and final orders were passed on 2.4.2005 as follows:
- b. As per pahanies from 1959-60, 1960-61, 1961-62, 1965-66, 1966-67, 1967-68, 1969-70, 1970-71, 1971-72, 1973-74, 1974-75 of Maddulapalli village for Sy.No.185/257/4, Duggi Veeraswamy (i.e. father of Duggi Ramulu and grand-father of Duggi Suryanarayana, the Appellant in CMA) was in possession as per column No.11 (pattedar column) and column No.16 (occupant column). Even, after 1974-75 also Duggi Ramulu's (appellant's father) name is recorded in the pahani.
- c. The contention of the respondent i.e. Burra Mallaiah that he purchased the land on 10.3.1960 from Duggi Ramulu is not valid, because the records filed by the appellant clearly shown the name of Duggi Veeraswamy, grand father of appellant in both 11 and 16 columns of the pahanies. If the respondent purchased the land in the year 1960 and is in possession of the land, his name would have been found at least in enjoyer's column.
- d. The Respondent also filed pahanies from 1964 to 1991 which shows that one Mohammed Habibullah was shown as Khabjadar in column 11, but he contended that he purchased the land on 10.3.1960 from Duggi Veeraswamy and Duggi Ramulu, which is contradictory.
- e. Finally, the respondent failed to produce valid documentary evidence in support of his claim that he purchased the land from Duggi Ramulu on 10.3.1960 and has been in possession since then.

Aggrieved by the orders of the Additional Agent to Government, Bhadrachalam the petitioner had filed the Revision Petition before the Government.

3. In the reference 2nd read above, the Addl. Agent to Government, Khammam was requested to furnish parawise remarks and case records and the same were furnished in the reference 4th read above. After examination of the case records notices were issued to the concerned to attend the hearing of the Revision Petition on 31-8-2007 and 17-9-2007 and was finally heard on 20-11-2007. Both the petitioner and his counsel were absent every time.

4. Government after careful examination of the material evidence on record found that:

- a. The pahani which is the basic record clearly shown that the tribal is in possession right from 1959-60 to 1974-75 and even after that also.
- b. According to the pahani copies filed by the revision petitioners, one Mohammed Habibullah was shown as Khabjadar in column 11 but contended that their father purchased the land on 10.3.1960 from Duggi Veeraswamy and Duggi Ramulu, which is contradictory.
- c. If the land is really purchased on 10.3.1960, the name of Burra Mallaiah would have been mentioned atleast in enjoyer's column.
- d. The sada sale agreement dt.10.3.1960 has no value in the light of the judgement of the Hon'ble High Court of AP in Bangaru Ramatulisamma Vs Yada Masthan Reddy in CRP No.1087/96, dt.10.8.1998 that unstamped and unregistered sale deeds cannot be taken as an evidence of proof under section 17 B of Registration Act.
- e. The petitioners had not raised about limitation point before the appellate authority.
- f. The contention of the petitioners that Addl. Agent to Govt. & PO ITDA has no jurisdiction to decide the appeal is not correct. According to the Govt. orders issued in GO Ms.No.193, dt.17.3.2002, the POs of ITDAs are Addl.Agents to Govt and competent to deal LTR appeals which was also confirmed by the Hon'ble High court (Justice V.V.S.Rao & G.V.Seetapathi) in a batch of 31 cases (9 cases in 2005, 8 cases in 2006 and 14 cases in 2007).

g. In the absence of valid documentary evidence, the possession of land under question by non-tribal revision petitioners, is illegal and violative of provisions of LTR 1/59 R/W 1/70.

5. Government after careful examination of the case records, hereby uphold the orders of the Agent to Government, Khammam in CMA No.84/2003 dt:2-4-2005 and accordingly dismiss the Revision Petition.

6. The Collector Khammam District / Agent to Government, Khammam are requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,
Prl. Secretary to Government.

To

The Collector, Khammam District. (WE)

1.CMA No:84/2003 containing CFP 144 & NFP 8 total 192 pages.

The Addl. Agent to Government & Po ITDA, Khammam District

The Special Deputy Collector (TW), Paloncha, Khammam District.

The Mandal Revenue Officer, Kamepally, Khammam District.

Sri. Burra Venkanna S/o Late Burra Mallaiah

R/o Maddulapally (V), Kamepalli (M), Khammam District.

Sri. Burra Sarvaiah S/o Late Burra Mallaiah

R/o Maddulapally (V), Kamepalli (M), Khammam District.

Sri. Burra Veeranna S/o Late Burra Mallaiah

R/o Maddulapally (V), Kamepalli (M), Khammam District.

Sri. Burra Sreenu S/o Late Burra Mallaiah

R/o Maddulapally (V), Kamepalli (M), Khammam District.

Sri.Duggi Satyanarayana S/o Late Ramulu

R/o Maddulapally (V), Kamepalli (M), Khammam District.

Sri M. Raja Malla Reddy (Advocate),

Plot No.22, Pragathi Nagar, Near Hyd. Public School,
Ramanthapur, Hyderabad.

The P.S. to M (TW & RAID).

SF / SC.

// FORWARDED BY ORDER //

SECTION OFFICER